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Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/774,449
Filing Date: January 30, 2001
Appellant(s): ABHYANKER ET AL.

Philip S. Lyren
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/28/2007 appealing from the Office action

mailed 3/1/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

GROUNDS OF REJECTION NOT ON REVIEW

The following grounds of rejection have not been withdrawn by the examiner, but they are not under review on appeal because they have not been presented for review in the appellant's brief.

Page 4 of the Non-Final Office action mailed 3/1/2007 sets forth a rejection based in part on Official Notice (reproduced here below):

"Claims 2, 10, and 18, Maxwell discloses the receiving a set step includes the step of receiving a set of financial applications each including a set of data fields (col. 7, lines 41-63).

Maxwell did not disclose the generating step includes the step of consolidating similar sets of data fields in each financing application into a generic data field in the generic financing application.

Official notice is taken that it is old and well known in the art of filling in forms to consolidate data fields in an application into a generic data field in the application which is known as merging.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the generating step include the step of consolidating similar sets of data fields in each financing application into a generic data field in the generic financing application and to modify in Maxwell because such a modification would allow Maxwell to have the capability of data population in a fill-out form when a command is given."

Appellant response to said Official Notice received 7/3/2006 included the

following challenge (reproduced here below):

"Challenge to Official Notice: In rejecting dependent claims 2, 10, and 18, the Office Action takes official notice that 'fit is old and well know in the art of filling in forms to consolidate data fields in an application into a generic data field in the application which is known as merging" (see OA at p. 4.).

Per MPEP § 2144.03, Appellants challenge the factual assertion as not properly officially noticed or not properly based upon common knowledge. As such, Appellants asks the Examiner to provide adequate documentary evidence.

Appellants contend that the noticed fact is not considered common knowledge or well-known in the art. For example, the independent claims recite consolidating financing in an internet exchange portal. The elements of the receiving step and the generating step are not known or common knowledge in the context of occurring at an internet exchange portal.

Appellants respectfully ask the Examiner to produce authority (in the form of documentary evidence) for the alleged notice."

To which the Office responded in the Final Office action mailed 3/1/2007,

page 6 section 6 (reproduced here below):

"6.   Regarding Appellants challenge to Official Notice, Resort may be had to any one of the following references as support that the previous Examiners Official notice is grounded in verifiable truth, that is, that it is known to consolidate

data fields into a generic data field, and that this phenomenon is known as "merging";

> **Abelow** "With a compatible database(s) and analysis software, any of those may be able to receive one or more data files to run their own analyses, which may include merging the received data with data from other sources to generate comparison reports, trend reports, forecasts, simulations, recommendations, etc. ",
>
> **Steele et al.** "[0094] The ATS 1002 merges the personal request for offer information 1014 and personal third-party information 1018 into a personal information record 1022. The personal information record 1022 includes the same Unique Identification Number (UIN) 1031 as the ATP 1024."
>
> **Schweitzer et al**. "(10) Real-time, policy-based filtering, aggregation, enhancement and merging creates accurate, detailed and comprehensive session detail records (DRs). "
>
> **Jacobsen et al.** Col. 4, lines 30-45
>
> **Thompson, III.** "[0032] The software may include a number of standardized forms to use with the action plans, and certain actions to be initiated by the software may consist of taking one such standard form, merging data from a user's database regarding the user, a client, the situation, etc, and then automatically producing the desired document, whether it is an e-mail message or other electronic communication, a script for a conversation, a text message, a printed document or another type of document."""

Appellant proffered no further arguments against the Official Notice in the instant Appeal Brief.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,589,290	MAXWELL ET AL.	7-2003
6,208,979	SINCLAIR	3-2001
5,999,908	ABELOW	12-1999
6,418,467	SCWEITZER ET AL.	07-2002
5,787,415	JACOBSEN ET AL.	07-1998

| US-2002/0072975 A1 | STEEL ET AL | 06-2002 |
| US-2004/0167877 A1 | THOMPSON, CARL III | 08-2004 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 9, 10, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,589,290) Maxwell et al.

Claims 1, 9 and 17.

Maxwell discloses, A method, a computer-usable medium, and a system for consolidating financing in an internet exchange portal, comprising the steps of:

receiving a set of financing applications at the internet exchange portal (col. 2, lines 12-24 and lines 53-67);

generating a generic financing application from the set of applications (col. 8, lines 13-26);

receiving data for the generic financing application and

populating the set of financing applications with the data (col. 8,

lines 27-55).

Maxwell did not expressly disclose a financial application. However,

Maxwell's form fill process can be used for a financial application or any

other application requiring that a form be filled. A financial application is

considered to be a design choice.

Claims 2, 10, and 18.

Maxwell discloses the receiving a set step includes the step of

receiving a set of financial applications each including a set of data fields

(col. 7, lines 41-63). Maxwell did not disclose the generating step includes

the step of consolidating similar sets of data fields in each financing

application into a generic data field in the generic financing application.

Official notice is taken that it is old and well known in the art of

filling in forms to consolidate data fields in an application into a generic

data field in the application which is known as merging.

It would have been obvious to one having ordinary skill in the art at

the time the invention was made to have the generating step include the

step of consolidating similar sets of data fields in each financing

application into a generic data field in the generic financing application and

to modify in Maxwell because such a modification would allow Maxwell to

have the capability of data population in a fillout form when a command is

given.

Claims 3-6, 11-14, and 19-22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over (US 6,589,290) Maxwell et al, hereafter Maxwell in view of (US

6,208,979) Sinclair.

Claims 3, 11, and 19.

Maxwell did not disclose, the receiving a set step includes the step

of receiving a set of financing applications from a corresponding set of

lenders; and the receiving data step includes the step of receiving data

from a buyer.

Sinclair discloses the receiving a set step includes the step of

receiving a set of financing applications from a corresponding set of

lenders; and the receiving data step includes the step of receiving data

from a buyer (col. 6, line 60-col. 7, line 18).

It would have been obvious to one having ordinary skill in the art at

the time the invention was made to have the step of receiving a set of

financing applications from a corresponding set of lenders; and the

receiving data step includes the step of receiving data from a buyer and to

modify in Maxwell because such a modification would allow Maxwell to

have the information filled in the application and to know what the buyer is

trying to purchase.

Claims 4, 12, and 20.

Maxwell did not disclose transmitting the set of financing applications to the lenders; and receiving a set of financing responses from the lenders including credit available to the buyer for purchasing goods within the internet exchange portal.

Sinclair discloses transmitting the set of financing applications to the lenders; and receiving a set of financing responses from the lenders including credit available to the buyer fro purchasing goods within the internet exchange portal (col. 7, lines 30-42).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to transmit the set of financing applications to the lenders; and receiving a set of financing responses from the lenders including credit available to the buyer for purchasing goods within the internet exchange portal and to modify in Maxwell because such a modification would allow Maxwell to allow the lenders to know the amount of money the buyer needs to purchase the goods.

Claims 5, 13, and 21.

Maxwell did not disclose receiving from the buyer an offer to purchase goods from the seller over the portal; receiving from a seller an acceptance of the offer; and instructing the set of lenders to provide a particular amount of credit to the buyer as consideration for the goods.

Sinclair discloses receiving from the buyer an offer to purchase

goods from the seller over the portal; receiving from a seller an

acceptance of the offer (col. 8, lines 18-45); and instructing the set of

lenders to provide a particular amount of credit to the buyer as

consideration for the goods (col. 8, line 59- col. 9, line 22).

It would have been obvious to one having ordinary skill in the art at the

time the invention was made to receive from the buyer an offer to

purchase goods from the seller over the portal; receiving from a seller an

acceptance of the offer; and instructing the set of lenders to provide a

particular amount of credit to the buyer as consideration for the goods and

to modify in Maxwell because such a modification would allow Maxwell to

have an application that had been approved by lenders willing to provide

the credit for the purchase of the goods.

Claims 6, 14, and 22.

Maxwell did not disclose instructing the set of lenders to provide a

particular amount of flooring to the buyer.

Sinclair discloses instructing the set of lenders to provide a particular

amount of flooring to the buyer (col. 8, lines 2-16).

It would have been obvious to one having ordinary skill in the art at

the time the invention was made to instruct the set of lenders to provide a

particular amount of flooring to the buyer and to modify in Maxwell

because such a modification would allow Maxwell to have the amount of

credit provided to the buyer based on the fill-in application form.

(10) Response to Argument

Examiners Note:

In order to minimize confusion it should be pointed out that Appellant's inventive

concept is directed towards financing "applications", however "applications" are nothing

more than "forms" or a form. It is considered that the two nouns "application" and "form"

are interchangeable and the limitation "financing" is non-functional descriptive matter in

that a form is a form, no matter whether it's used for finances or any other business

area. Appellant's arguments surrounding the term "financing" will be discussed further

below. Again, the term "application" is used in the context of a form for applying for (for

example) credit. Not to be confused with the term "application" as in computer software

written for execution on a computer.

A.   Appellant argues:

(Page 11) "By way of example, independent claims 1,9, and 17 recite
receiving a set of financial applications at an internet exchange portal. These
claims then recite "generating a generic financing application from the set of
applications." Maxwell does not teach or suggest these recitations. The Office
Action cites Maxwell at column 8, lines 13-26 for allegedly teaching these
recitations. Appellants respectfully disagree.
        Column 8, lines l3-26 in Maxwell teaches how a user enters data into a
data collection form. As noted in the overview of Maxwell, a user is initially
presented with a data collection form (9: 50-51) "the user enters data into this
form, and the data is stored in a storage medium (9: 52-53). This data is used to
populate other forms that the user encounters over the internet (9: 54-56).

Nowhere does Maxwell teach or suggest "generating a generic financing application from the set of applications,"

First, Maxwell stores the data in a storage medium. Maxwell never states or even suggests that this storage medium is a "'generic application." In other words, Maxwell never states or suggests that the data generates a "generic application." Again, Maxwell stores this data and creates icons (see 11: 1-23). Storing data and creating icons is not "generating a generic application."

Response:

A.1.   Regarding the contention:

> "The independent claims recite numerous recitations that are not taught or suggested in Maxwell. By way of example, independent claims 1, 9, and 17 recite receiving a set of financial applications at an internet exchange portal. "

A.2.   Response:

It appears Appellant is arguing that Maxwell does not recite receiving information at an internet exchange portal. Maxwell is indeed directed towards the internet and information distributed therein. See for example the abstract. For arguments sake, even if Maxwell did not specify an internet exchange portal was where the receiving and generating was taking place, the limitation "at the internet exchange portal" does not define over the art of record as there is no patentability in merely changing where the functions are performed as long as the same result is accomplished. See, *__In re Dulberg__*, 129 USPQ 348, (CCPA 1961),

> "It has been held that constructing a formerly integral structure in various elements involves only routine skill in the art"

However, Maxwell does clearly disclose receiving a set of financial

applications **at an internet exchange portal** in, for example,

Col. 8 lines 27-39:

"**To populate a form with data** the form completion program obtains an
image of the form and **then searches for a template file that resembles the
form image to within a certain threshold**. The template files are typically
stored on the computer hosting the target application in a template directory that
is arranged according to a predefined structure...
        However, the invention also contemplates **searching for templates at
alternate locations**. Templates, for example, **may reside on any other
computer that is accessible via a telecommunication medium such as a
computer network**."

and

Col. 11 lines 35-42:

"the data population command may obtain data **from a memory
device that is available via a communication medium such as a
computer network**"

The phrase "any other computer that is accessible via a

telecommunication medium" clearly teaches that the set of financial applications

can indeed reside **at an internet exchange portal** as internet exchange portals

are indeed computers accessible via telecommunication mediums.

Further, resort may be had to **Col. 2 lines 21-24** to show that it is known

that files are stored on a web server:

"The files 160 stored on the web server may contain any type of data. For
example, the files may contain data used to construct a form...or any other
type of data."

A.4.   Regarding the contention:

"First, Maxwell stores the data in a storage medium. Maxwell never states or even suggests that this storage medium is a '"generic application." In other words, Maxwell never states or suggests that the data generates a "generic application." Again, Maxwell stores this data and creates icons (see 11: 1-23). Storing data and creating icons is not "generating a generic application."

A.5.   Response:

Maxwell discloses generating a generic application in for example:

Col. 13 lines 48-58:

"In one embodiment of the invention, a different template file is created for each form. **However, a single template file may represent more than one form. For example, a generic template** that operates on forms that adhere to a set of predefined standards **may be created** and later verified by an independent party. The template may store information using a variety of formats such as binary, hexadecimal, or text (e.g. ASCII or XML). It is also possible to use other methods for representing information. A template file, for example, may be an executable file, a compressed file, and/or any other form of storing digital information. For example, a template file may be included in the form (using ECML, inband tems).

B.   Appellant argues:

"Second, the claims recite that the generic application is generated from a set of applications. In other words, a "set of applications" generates the generic application. By complete contrast, Maxwell never uses a set of applications to generate another application. Maxwell uses data entered into a data collection form to create icons, These icons are used to populate subsequent forms that a user encounters on the internet. Where is the set of applications in Maxwell that generates another application? They do not exist, Again, nowhere does Maxwell teach or even suggest whatsoever that a set of applications is used to create a generic application. In Maxwell, a user manually drags icons into a form to populate the form. The form in Maxwell is not generated from a set of applications, but generated from a user dragging icons into the form. "

B.1.   Response:

Again as cited from Col. 13 above

> "a single template file may represent more than one form. **For example, a generic template ... may be created**"

Further, Maxwell teaches "receiving a set of financing applications" and "generating a generic financing application from the set of applications" for at least the following reasons. Maxwell can be considered as receiving each, every and all applications or forms of whatever type and generating a generic application to fulfill the data population of and for each application, form, etc.

That is, Maxwell is considered as the master data field populator of any information required by any form. Appellant is again directed to column 7, lines 40-63 and column 8, lines 13-55 wherein it is taught that in order to fill in a form, data must be first be entered into the database. The specific type of data that must be entered would of course be determined by the form or application that is to be filled out. Further, Maxwell discloses searching for templates to aid in the population of data. This is also considered as receiving an application or form.

C.   Appellant argues:

"Where is the set of applications in Maxwell that generates another application?" This could also be rewritten as "Where is the set of forms in Maxwell that generates another form?

C.1.   Response:

The "set of applications" in Maxwell can be considered as reading on the "templates that resemble the form image". In order to fill out any form, the data must have first been entered into the system. Again, Maxwell is the master form filler outter in that it can fill out any form by finding similar forms and comparing data fields for appropriate data or consolidating forms into a generic form.

It appears Appellant is attempting to take a literal translation of Maxwell and not applying the teachings of what Maxwell's inventive concept truly embodies. Appellant is requested to not only consider what the Examiner has attempted to explain and expound upon, but also as to what Maxwell teaches on a bigger scheme, i.e. to fill out a form, no matter what kind of form it is.

See *In re Shepard*, 138 USPQ 148 (CCPA 1963)

> "In considering disclosure of reference patent, it is pertinent to point out not only specific teachings of patent but also the reasonable inferences which one skilled in the art would logically draw therefrom."

Appellants claims are open ended, that is, they are merely "comprising the steps of". In this regard, there is no specific manner in which the steps must be performed, NOR is there exclusion to other steps that may be performed either before or after the steps listed in the claims. Accordingly it is considered that Maxwell discloses each and every limitation of the claims.

D.   Appellant argues:

"Third the claims recite that an internet exchange portal generates a generic financing application. By contrast, Maxwell teaches that a user (not an internet exchange portal) enters data into a data collection form to generate

graphical icons. Maxwell does not teach or suggest that an internet exchange portal itself generates a generic financing application."

(Page 12) Dependent Claims 2, 10, 18

"Dependent claims 2, 10, and 18 recite receiving a set of financial applications and then consolidating similar sets of data fields in each financial application into a generic data field in the generic financing application. Maxwell does not teach or suggest these elements.

Nowhere does Maxwell teach or suggest receiving financial applications and then consolidating similar" fields of these financial applications into a generic data field in the financial application. By contrast in Maxwell, the user enters data into a collection form ("the data collection interface collects a data set via a data collection form" see Maxwell at 9: 50-53). This user data is then associated with a graphical icon (see Maxwell at 9: 62- 67). Later, when a user is prompted to enter personal information into a form, |he user drags the icon into the form (see Maxwell at 30-35.).

First, in Maxwell the user never receives financial applications. Second. fields of a form are not consolidated in Maxwell (instead a user drags an icon into a form). Third, in Maxwell fields are not consolidated into a generic data field in. the financial application instead a user drags an icon into a form)."

D.1. Response:

First, the rejection of claims 2, 10 and 18 was based on the combination

of Maxwell in view of Official Notice as set forth in Section 6 above. Appellant did

not address nor overcome the Official Notice rejection and therefore arguments

in this regard appear moot.

Second, Maxwell does indeed teach receiving financial applications and

then consolidating similar fields of these financial applications into a generic data

field in the financial application in, for example,

Col. 13 lines 48-58:

"In one embodiment of the invention, a different template file is created for each form. **However, a single template file may represent more than one form. For example, a generic template that operates on forms that adhere**

to a set of predefined standards may be created and later verified by an independent party. The template may store information using a variety of formats such as binary, hexadecimal, or text (e.g. ASCII or XML). It is also possible to use other methods for representing information. A template file, for example, may be an executable file, a compressed file, and/or any other form of storing digital information. For example, a template file may be included in the form (using ECML, inband tems).

Maxwell clearly discloses generating a set of financial applications **at an internet exchange portal** in, for example,

Col. 8 lines 27-39:

"**To populate a form with data** the form completion program obtains an image of the form and **then searches for a template file that resembles the form image to within a certain threshold**. The template files are typically stored on the computer hosting the target application in a template directory that is arranged according to a predefined structure...
  However, the invention also contemplates **searching for templates at alternate locations**. Templates, for example, **may reside on any other computer that is accessible via a telecommunication medium such as a computer network**. "

and

Col. 11 lines 35-42:

"the data population command may obtain data **from a memory device that is available via a communication medium such as a computer network**"

The phrase "any other computer that is accessible via a telecommunication medium" clearly teaches that the set of generic financial applications can indeed reside **at an internet exchange portal** as internet

exchange portals are indeed computers accessible via telecommunication

mediums.

Third, contrary to appellant's allegation, Maxwell is NOT confined to:

"By contrast in Maxwell, the user enters data into a collection form
("the data collection interface collects a data set via a data collection form"
see Maxwell at 9: 50-53). This user data is then associated with a
graphical icon (see Maxwell at 9: 62- 67). Later, when a user is prompted
to enter personal information into a form, the user drags the icon into the
form (see Maxwell at 30-35.)"

**Because Maxwell clearly discloses in, for example, Col. 10 lines 49-
58:**

"In one embodiment of the invention, the data population command
is executed by a form completion program. The form completion program
may be configured to collect data from the user and execute a data
population command when the user performs a drag and drop operation.
Other types of computer programs, however, **may also collect data
from the user and perform a data population command. For
example, an operating system, a dynamic link library, a Java applet,
or any other type of executable computer program may be
configured to execute a data population command.** " (Emphasis
added)

This clearly teaches that Maxwell does indeed contemplate methods of

form filling other than dragging the graphical icons into the form.

E.   Appellant argues:

"(Page 13) Response to Examiner's Arguments

The Examiner makes numerous Arguments. Appellants respond to some
of these arguments.
First, the Examiner argues that the claimed term "financing" is non-
functional descriptive matter (see Final OA at p, 3). Appellants respectfully ask
the Board of Appeal to provide weight m each word recited in the claims, The
Examiner is ignoring words actually appearing in a claim.

Second, the Examiner makes the following argument: For arguments sake, even if Maxwell did not specify an internet exchange portal was where the receiving and generating was taking place, the imitation [sic] '°at the internet exchange portal" does not define over the art of record as there is no patentability merely in changing where the functions are performed as the same result is accomplished. (See Final OA at p. 31).

Again, the Examiner is ignoring recitations expressly recited in the claims. The citation to In re Dulberg is not related to the present issues. The Examiner is using In re Dulberg as a way to ignore recitations in a claim. The Examiner has misconstrued the teachings in this case. Appellants respectfully ask the Board of Appeals to weigh all words actually recited in the claims. "

Response:

E.1.   Regarding the contention:

"First, the Examiner argues that the claimed term "financing" is non-functional descriptive matter (see Final OA at p, 3). Appellants respectfully ask the Board of Appeal to provide weight to each word recited in the claims, The Examiner is ignoring words actually appearing in a claim.

E.2.   Response:

The Examiner has in no way disregarded words appearing in the claims.

the Examiner has clearly explained why the term "financing" does NOT define

over the prior art in the Non-Final Office action mailed 4/6/2006.

"Maxwell did not expressly disclose a financial application. However,

Maxwell's form fill process can be used for a financial application or any other

application requiring that a form be filled. A financial application is considered to

be a design choice."

The teachings of Maxwell cannot be ignored as Maxwell is directed

towards the same concept as the instant invention. **Maxwell is a clearinghouse**

for filling out forms, which lends itself to any institution or industry that

requires forms to be filled out. One of ordinary skill in the art would appreciate

the teachings of Maxwell to this extent. Following Appellant's logic that Maxwell

is NOT applicable to financial applications is synonymous with saying that

Maxwell would need to get a patent for each different business area requiring

forms to be filled, for example, credit cards, auto loans, home loans, insurance,

etc. Again, Maxwell is concerned with filling out a form, regardless of its

application to finance, insurance, credit worthiness, etc.

E.3.   Regarding the contention:

> "Second, the Examiner makes the following argument: For arguments
> sake, even if Maxwell did not specify an internet exchange portal was where the
> receiving and generating was taking place, the imitation [sic] '°at the internet
> exchange portal" does not define over the art of record as there is no
> patentability merely in changing where the functions are performed as the same
> result is accomplished. (See Final OA at p. 31). "

E.4.   Response:

See the Examiners responses set forth within section 10 A.2. of this

document above with regard to the internet exchange portal as Maxwell clearly

discloses such.

F.   Appellant argues:

"(Page 13) Claim Rejections: 35 USC § 103(a)

Claims 3-6, 11-14, and 19-22 are rejected trader 35 USC § 103(a) as
being unpatentable over USPN 6,589,290 (Maxwell) in view of USPN 6,208,979
(Sinclair).As noted in section V, Maxwell fails to teach or suggest all the elements
of the independent claims, Sinclair fails to cure the deficiencies of Maxwell. Thus,

for at least the reasons given above in connection with the independent claims, the respective dependent claims are allowable over Maxwell and Sinclair."

F.1.   Response:

Appellant did not argue this specific rejection and relies upon supposed deficiencies in the base reference Maxwell. Since appellants' arguments regarding Maxwell have already been addressed and set forth above, no further explanation appears pertinent.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Daniel L Greene Jr./

Examiner, Art Unit 3694

Conferees:

Ella Colbert   /Ella Colbert/

                        Primary Examiner, Art Unit 3696

Vincent Millin   /Vincent Millin/

Appeals Practice Specialist